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IN THE

Supreme Court of the United States

OCTOBER TERM, 1961

No. 660

TEXACO PUERTO RICO INC.,
Petitioner,

against

JUSTINO V. ARMAIZ and his wife JOAQUINA GONZALES, and MOBIL OIL CARIBE, INC.,
Respondents.

ON PETITION FOR WRITS OF CERTIORARI

BRIEF FOR RESPONDENTS IN OPPOSITION

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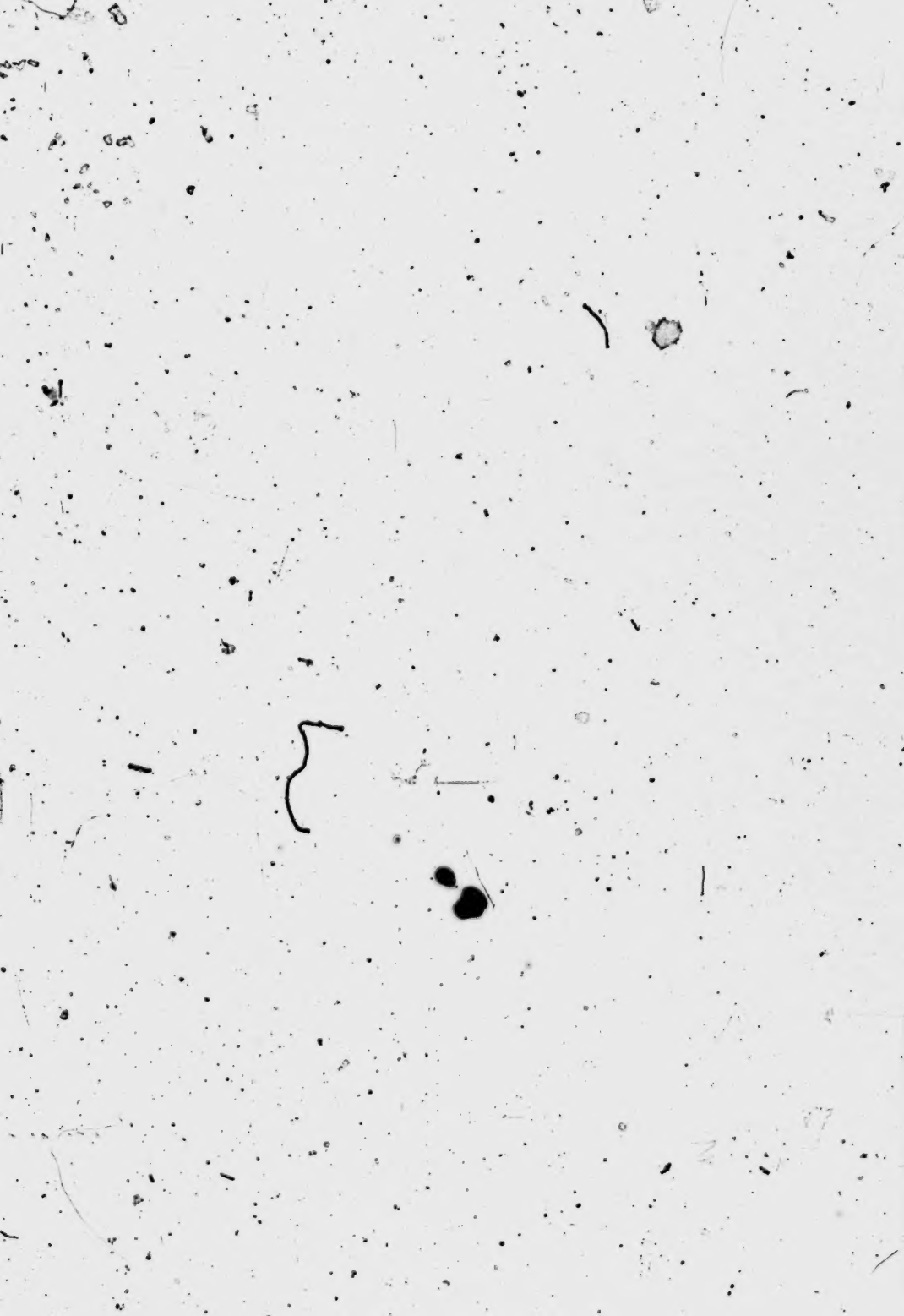

INDEX

	PAGE
Opinions Below	1
Jurisdiction	1
Questions Presented	2
Statutes Involved	2
Statement	3
Argument:	
I—The Decision Below Rests Squarely on Puerto Rican Procedural and Substantive Law	5
II—There Is No Important Or Controlling Question Of Federal Law	7
III—Petitioner Seeks Improperly To Invoke The Jurisdiction Of This Court	10
A. Review of Judgment of the Superior Court of Puerto Rico	11
B. Review of Judgment of the Supreme Court of Puerto Rico	13
C. Plenary Review is Not Warranted	15
IV—Petitioner's Arguments On U. S. Antitrust Laws Are Not Pertinent	16
Conclusion	17
Appendix	
Antitrust Laws of Puerto Rico, Sections 251 and 252 (10 L.P.R. Ann. §§ 251 and 252)	1a

PAGE

Judicial Code of Puerto Rico, Section 37(b) (4 L.P.R. Ann. § 37(b)) 1a

Judicial Code of the United States, Sections 1257, 1258 and 1293 (28 U.S.C. §§ 1257, 1258 and 1293) 2a

Rules of Civil Procedure of Puerto Rico (1958), Rule 34.4 ..... 4a

CITATIONS

Cases

Bonet v. *Texas Co.*, 308 U. S. 463 (1940) 9

International Basic Economy Corp. v. *Blanco Lugo*, 267 F. 2d 263 (1st Cir. 1959) 11

Puerto Rico v. *Shell Co.*, 302 U. S. 253 (1937) 8

Radio Station WOW v. *Johnson*, 326 U. S. 120 (1945) 8

Sierra v. *Superior Court*, 81 P.R. Rep. 540 (1959) 14, 15

Steinbridge v. *Georgia*, 343 U. S. 541 (1952) 15

Statutes

Clayton Act, Section 7 16

Sherman Act, Section 2 16

28 U.S.C. § 1252 12

28 U.S.C. § 1257 ..... 3, 11, 12

28 U.S.C. § 1258 ..... 1, 2, 3, 10, 11, 12, 13, 15, 16

28 U.S.C. § 1293 ..... 3, 11, 12

Antitrust Laws of Puerto Rico, 10 L.P.R. Ann. §§ 251-252 ..... 2, 4

	Page
Judicial Code of the Commonwealth of Puerto Rico, 4 L.P.R. Ann. § 37(b)	2, 3, 6, 11
Judicial Code of the Commonwealth of Puerto Rico, 4 L.P.R. Ann. § 37(a)	16
Rules of Civil Procedure of Puerto Rico (1958), Rule 34.4	3, 5

Committee Reports

S. Rep. No. 735, 87th Cong., 1st Sess., pp. 3-4 (1961)	12

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Opinions Below

The opinions below are printed as Appendices to the Petition:

Order of Superior Court of Puerto Rico, Bayamon Part ..... Appendix A

Judgment of Superior Court of Puerto Rico ..... Appendix B

Order of Supreme Court of Puerto Rico ..... Appendix C

Jurisdiction

Petitioner seeks to invoke the jurisdiction of this Court under 28 U.S.C. § 1258. Its Petition, however, expressly recognizes that Section 1258 does not, by its provisions, authorize this Court to grant the requested writs of certiorari, but argues that this Section must be so interpreted as to permit such writs. This question of statutory

construction will arise, however, only if this Court concludes that the decisions sought to be reviewed involve controlling questions of federal laws. Section 1258 does not provide for review of the decisions of Puerto Rican courts on questions of local Puerto Rican law.

Questions Presented

1. Whether an important and controlling question of federal law is presented by either:

(a) A judgment of a trial court in Puerto Rico dismissing a complaint for a plaintiff's willful failure to obey that court's order to answer interrogatories relevant to a question of illegality under local Puerto Rican law; or

(b) A judgment of the Supreme Court of Puerto Rico denying a petition for review of the dismissal of the complaint for such willful failure to answer.

2. Whether a judgment entered by the Superior Court of Puerto Rico, which is not the Supreme Court of the Commonwealth of Puerto Rico, may be reviewed by this Court under 28 U.S.C. § 1258.

3. Whether an order of the Supreme Court of Puerto Rico, entered in its discretion pursuant to the Judicial Code of the Commonwealth of Puerto Rico (4 L.P.R. Ann. § 37(b)) denying a petition for review of a judgment may be reviewed by this Court under 28 U.S.C. § 1258.

Statutes Involved

The statutes and the Rules of Procedure pertinent to the Petition are printed in Appendix I hereto as follows:

Antitrust Laws of Puerto Rico, Sections 251 and 252 (10 L.P.R. Ann. §§ 251 and 252);

Judicial Code of Puerto Rico, Section 37(b) (4 L.P.R. Ann. 37(b)):

Judicial Code of the United States, Sections 1257, 1258, and 1293 (28 U.S.C. 1257, 1258 and 1293):

Rules of Civil Procedure of Puerto Rico (1958), Rule 34.4.

Statement

The gist of the complaint is that defendant Mobil Oil Caribe, Inc. ("Mobil") induced defendants, Arnaiz and his wife, to breach a contract with petitioner, Texaco Puerto Rico Inc. ("Texaco"). The complaint seeks an injunction, cancellation of a subsequent contract between Mobil and Arnaiz and a judgment declaring petitioner's option to acquire the properties involved to be valid and enforceable. No claim is made for damages or for unjust enrichment.

The defendants denied substantially all of the allegations of the complaint and set up certain affirmative defenses[1] including the defense that the contract sought to be enforced by plaintiff, Texaco, was illegal and void as violating "the anti-trust and public order laws in force in the Commonwealth of Puerto Rico". As a further defense to the injunction, it was alleged that plaintiff had unclean hands and that to issue such a writ would perpetuate a violation of the antitrust laws in force in Puerto Rico.

Defendants also served interrogatories demanding disclosure of facts designed to support these defenses by showing the dominant share of the Puerto Rican market controlled by Texaco and the extent to which effective

1. The pertinent portions of defendants' affirmative defenses are printed as Appendix D to the Petition.

competition has been foreclosed in this local market by the contract sued on and by Texaco's system of restrictive contracts.

Texaco moved to strike the defendants' affirmative defenses and objected to the interrogatories on the grounds that they were improper in this suit for equitable relief.

After hearing, the Superior Court of Puerto Rico, Bayamon Part, on April 12, 1961, sustained the defendants' affirmative defenses as being sufficient under the local law of Puerto Rico, including the local antitrust statutes of Puerto Rico.[2] The court, applying Puerto Rican law in the interpretation of plaintiff's contract, said in its order, that to enforce plaintiff's contract

> "* * * would have no other scope than to place in the hands of plaintiff the station of the Armaiz-Gonzales spouses, thereby increasing the *illegal control* over the gasoline market in Puerto Rico."

It then concluded:

> "* * * Therefore, the defenses that were challenged must not be stricken and the interrogatories presented by the defendants must be answered within 30 days."

Plaintiff sought to have this interlocutory order reviewed by the Supreme Court of Puerto Rico. Its petition was denied, thereby making the Superior Court's decision the law of the case prior to the trial on the merits.

Texaco failed to answer the interrogatories as ordered. Thereafter, the Superior Court gave Texaco "a final 20

2. 10 L.P.R. Ann. §§ 251 and 252. Printed in Appendix I hereto.
3. Printed as Appendix A to the Petition.

day term to answer * * * under pain of penalties." Plaintiff continued its refusal to answer and, on motion to compel answer or dismiss the complaint the Superior Court entered a judgment dismissing the complaint.[4]

Plaintiff's petition for a review of that judgment by the Supreme Court of Puerto Rico was denied.[5]

This Petition now seeks a writ of certiorari to review the judgment of the Superior Court and the denial by the Supreme Court of Puerto Rico.

ARGUMENT

I

The decision below rests squarely on Puerto Rican procedural and substantive law.

Rule 34.4 of the Rules of Civil Procedure of the Commonwealth of Puerto Rico, specifically provides for a judgment dismissing a complaint for failure to serve answers to interrogatories ordered by the court.[6] The Superior Court, having determined as a matter of law that it would not strike the affirmative defenses of the defendants, had no alternative but to dismiss the complaint in the light of the plaintiff's repeated refusals to comply with its orders. This dismissal has never been challenged by the petitioner as an abuse of discretion. But whether it involved an abuse of discretion or not, a determination of that question would involve the application of the Puerto Rican Rules of Civil Procedure, not any federal question.

4. Printed as Appendix B to the Petition.
5. Printed as Appendix C to the Petition.
6. Printed in Appendix I hereto.

Plaintiff sought review of this dismissal by the Supreme Court of Puerto Rico. As such review is discretionary, plaintiff filed an extensive and detailed Petition for Review. It urged two errors of law:

> *First*, the denial of its motion to strike defendants' affirmative defenses and of its objections to the interrogatories, and
>
> *Second*, the dismissal of the complaint on the ground that plaintiff had refused to answer defendants' interrogatories.

That Petition for Review conceded that the affirmative defenses challenged the validity of the contract sued upon by plaintiff on the ground "that the contract * * * is null *ab initio* because it violates the antitrust laws of the Commonwealth of Puerto Rico." By denying the Petition for Review the Supreme Court left undisturbed the trial court's decision that such defenses were proper under the local Puerto Rican antitrust statutes.

This was the second time that the Supreme Court of Puerto Rico had, in its discretion, left undisturbed the ruling of the Superior Court that the affirmative defenses were valid as a matter of law on a number of grounds, including the local Puerto Rican statutes. Thus, having just had these questions of law decided against it under local Puerto Rican procedure, plaintiff, in effect sought to have the "law of the case" reviewed again by the Supreme Court of Puerto Rico by the simple expedient of repeatedly disobeying the order of the trial court.

This having failed, plaintiff now petitions this Court for review. The possibilities of permitting a litigant to secure interminable re-examinations of questions of sub-

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7. 4 L.P.R. Ann. 37(b). Printed in Appendix I hereto.

stantive law arising at the pleading stage of a case in connection with each step in discovery is repugnant to our entire judicial system and concepts of fair play. This is particularly true when the decision sought to be reviewed involves local court rulings on questions of local procedure and the sufficiency of defenses based on local law.

II

There is no important or controlling question of federal law.

Petitioner insists that, implicit in the judgment of the Superior Court and the denial of review by the Supreme Court of Puerto Rico, there lurks an important and controlling question of federal law. Strangely, when petitioner was trying to induce the Supreme Court of Puerto Rico to grant a discretionary review, petitioner specifically urged the importance of the question presented under the local Puerto Rican antitrust statutes. One must assume plaintiff realized that to obtain a reversal of the decision of the trial court, it had to convince the Supreme Court that the decision was an erroneous interpretation of Puerto Rican statutes.

Petitioner now claims, however, that the decision below is based solely on federal grounds (i.e., an application of the United States antitrust laws). This is directly contrary to what the trial court said and what it did, since it refused to strike the defenses on a number of grounds, including the local Puerto Rican antitrust laws.

This Petition ignores the fact that the judgments sought to be reviewed were based on the dismissal of the complaint resulting from petitioner's contempt of an order

of the Superior Court. Instead, it seeks a review of the sufficiency of the affirmative defenses. These defenses are based not only on the United States antitrust laws but also on the local Puerto Rican antitrust statutes. These Puerto Rican statutes are separate and distinct from the United States antitrust laws. *Puerto Rico v. Shell Co.*, 302 U.S. 253 (1937). These defenses have been held by the Superior Court of Puerto Rico in this case to be sufficient as a matter of Puerto Rican substantive law under the local antitrust statutes. The defendants' interrogatories are, and have been held by that Puerto Rican court to be, plainly germane to these defenses. Thus, even assuming *arguendo* that the Superior Court misconstrued the application of the federal antitrust laws, nevertheless, since it also expressly relied on applicable Puerto Rican law, petitioner is not entitled to review by this Court. As this Court stated in *Radio Station WOW v. Johnson*, 326 U.S. 120, 129 (1945):

> "* * * this court will not review a State court decision resting on an adequate and independent non-federal ground even though the State court may have also summoned to its support an erroneous view of federal law. 'Where the judgment of the state court rests on two grounds, one involving a federal question and the other not * * *, and the ground independent of a federal question is sufficient in itself to sustain it, this Court will not take jurisdiction.' *Lynch v. New York*, 293 U.S. 52, 54-55."

This principle is particularly applicable when, as here, the petitioner is seeking to thwart a broad application of the Puerto Rican antitrust laws which has been approved by the local courts of Puerto Rico. Even when the Judicial Code provided for review of questions of local Puerto Rican law, this Court consistently recognized the inter-

pretations of Puerto Rican law by the local courts of Puerto Rico as controlling. In *Bonet v. Texas Co.*, 308 U. S. 463, 471 (1940), this Court stated:

> "* * * To reverse a judgment of a Puerto Rican tribunal on such a local matter as the interpretation of an act of the local legislature, it would not be sufficient if we or the Circuit Court of Appeals merely disagreed with that interpretation. Nor would it be enough that the Puerto Rican tribunal chose what might seem, on appeal, to be the less reasonable of two possible interpretations. And such judgment of reversal would not be sustained here even though we felt that of several possible interpretations that of the Circuit Court of Appeals was the most reasonable one. For to justify reversal in such cases, the error must be clear or manifest; the interpretation must be inescapably wrong; the decision must be patently erroneous."

Despite this fundamental rule of law pronounced in *Bonet v. Texas*, petitioner seeks to rely on the specious argument that the federal courts would have construed the Puerto Rican antitrust laws so narrowly as to make this contract valid and enforceable in equity. Suffice it to say the Puerto Rican court on a motion directed to a pleading construed the Puerto Rican statute more broadly.[8] Such a judicial determination of local law must be controlling.

8. The Superior Court held that the defendants were entitled to prove that the necessary effect of the equitable enforcement of the contract was to restrain trade and commerce in Puerto Rico. That court was certainly influenced by the fact that the contract actually was not what it purported to be on its face, i.e., a simple contract of borrow and loan. Indeed it was one where the provisions restraining the borrower were of the essence. It was these restraints which plaintiff was seeking to enforce, for as the court noted the defendants "have been willing to pay the loan in full, and plaintiff has refused." As a result the court gave the defendants the opportunity to defend against a suit for specific performance of this contract both by showing the restraint on competition by this contract standing alone and that this contract was but a part of plaintiff's system of long term contracts having similar restrictive provisions.

Moreover, this is the first case where a court of the Commonwealth has considered affirmative defenses asserted under the local antitrust laws and therefore the local courts are entitled to consider this question on the record after a full trial and not solely upon the pleadings. Otherwise those local statutes cannot be adapted to promote competition in Puerto Rico. There is no reason why these local statutes must be equated to the federal antitrust laws. The courts of the Commonwealth must be permitted to determine the scope of its local antitrust statutes.

Actually all that the court below decided was that the defendants could at the trial of the case, show that plaintiff was not entitled to enforce the contract by equitable means and show that the contract was in furtherance of a monopolistic plan to restrain local competition in Puerto Rico. In effect, the court merely concluded that the efficacy of such affirmative defenses should be left for determination at the trial. Certainly such a decision involves no controlling problem of federal law.

III

Petitioner seeks improperly to invoke the jurisdiction of this Court.

Petitioner is uncertain which judgment of the courts below this Court should review. Consequently it seeks certiorari, under Section 1258 of the Judicial Code, to the judgments of both the Superior Court and the Supreme Court of Puerto Rico. Under this Section the judgment of the Superior Court cannot be reviewed by this Court and, in this case, the judgment of the Supreme Court should not be reviewed.

A. Review of Judgment of the Superior Court of Puerto Rico.

Section 1257 of Title 28 of the United States Code expressly provides that a petition for a writ of certiorari to this Court lies *only* from final judgments or decrees of the Supreme Court of the Commonwealth. This Section does not provide for the direct review of a judgment of the Superior Court of Puerto Rico. In this respect, Section 1258 is the same as Section 1293,[9] which it superseded. Under Section 1293 appeals to the Circuit Court of Appeals for the First Circuit were permitted only from judgments of the Supreme Court of Puerto Rico. Whenever the Supreme Court's action was to deny a petition for discretionary review the only question before the court of appeals was whether there had been an abuse of discretion. *International Basic Economy Corp.* v. *Blanco Lugo*, 267 F. 2d 263 (1st Cir. 1959).

Petitioner bases its request for a review of the Superior Court's judgment on the argument that Section 1258 does not mean what it expressly states. Indeed, petitioner seeks to have this Court completely rewrite this Section by substituting the words "by the highest court of Puerto Rico in which a decision could be had" for "by the Supreme Court of the Commonwealth of Puerto Rico." (Cf. 28 U. S. C. 1257). To justify such a revision petitioner conjectures a "failure of Congress to recognize the effect * * *" of an amendment to the Judicial Code of Puerto Rico which, in a case such as this, made review discretionary. This amendment had been passed by the Legislature of Puerto Rico three years prior to the passage of Section 1258. (4 L.P.R. Ann. 37(b)).[10] Petitioner

[9] §§1257, 1258 and 1293 are printed in Appendix I hereto.

[10] Printed in Appendix I hereto.

offers no basis for its conjecture concerning such a "failure" by Congress. In fact, the Petition itself recites that this provision for discretionary review was referred to on various occasions during the course of Congressional Committee Hearings.

Furthermore, Congress was aware of the difference between Sections 1257 and 1258 for a number of reasons. It had before it the opinion of the Deputy Attorney General of the United States,[11] which stated that Section 1258 related only to review of final judgments or decrees of the Supreme Court of Puerto Rico and was not the equivalent of Section 1257. In addition, the Senate Committee considered whether the enactment of Section 1258 would add a further burden on this Court than already existed as a result of Section 1293. The Senate report concluded that it would not.[12]

Congress, being aware of the differences between Sections 1257 and 1258, determined that only judgments of the Supreme Court of the Commonwealth of Puerto Rico involving federal questions should be reviewed by this Court.[13]

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11. Letter of Byron R. White, July 10, 1961 prior to the enactment of Section 1258. S. Rep. No. 735, 87th Cong. 1st Sess. pp. 3-4. Petitioner notes that this letter was attached to the Senate report sponsoring the bill. Yet without any basis in fact petitioner now theorizes that "the letter apparently received scanty consideration." Needless to say, no such assumption is warranted.

12. S. Rep. No. 735, 87th Cong. 1st Sess. p. 3 (1961).

13. Congress has specifically provided for direct review by this Court of those rulings of the lower courts of Puerto Rico which it felt should be so reviewed. Thus 28 U.S.C. §1252 provides for such review in certain types of cases, but not in this case. With a special section in the Judicial Code for such direct review of lower court rulings, it seems clear that Congress never intended to provide for review by this Court of all the rulings of the lower courts of Puerto Rico when enacting Section 1258.

Despite the express wording of Section 1258 and the clear Congressional intent to the contrary, petitioner seeks an interpretation of this Section which would subject this Court to a myriad of cases seeking review of decisions of the trial courts of Puerto Rico relating to local discovery procedure. Such an interpretation would permit plaintiffs, in any case where a federal question is claimed, willfully to refuse to comply with orders of a trial court in Puerto Rico to obtain a dismissal of the action and seek review by this Court.

B. Review of Judgment of the Supreme Court of Puerto Rico.

Petitioner also seeks review of the order of the Supreme Court of the Commonwealth of Puerto Rico denying the Petition for Review. The Petition to this Court discloses neither the basis upon which such review is sought nor precisely what petitioner would like this Court to review with respect to the order of the Supreme Court of the Commonwealth.

The Petition conceals that the Circuit Court of Appeals for the First Circuit has always held that an appeal from a judgment of the Supreme Court of Puerto Rico denying review is limited to a determination whether that court had abused its discretion in refusing to review.[14] Assuming, *arguendo*, that in granting or refusing a petition for review the Supreme Court of Puerto Rico exercises a reviewable discretion, it is difficult to see how an abuse of that discretion would be reviewable under Section 1258. At most, the only question that could be raised would be a question of Puerto Rican appellate procedure arising

14. Petition, p. 16.

under the Judicial Code of Puerto Rico. The Petition makes no claim of any abuse of discretion.

In refusing to grant plaintiff's Petition for Review, the Supreme Court of Puerto Rico was merely carrying out its established rule of law that discovery in the Superior Courts of Puerto Rico is solely within the discretion of those courts and will not be reviewed unless there has been an abuse of discretion. That court made its position abundantly clear in *Sierra* v. *Superior Court*, 81 P. R. Rep. 540 (1959). In that case the defendant's interrogatories were sustained by the Superior Court and the Supreme Court of Puerto Rico granted a writ of review. The court in upholding the trial court stated:

> "On appeal or review, our function is limited to deciding whether the Superior Court abused its discretion in rejecting those objections and ordering all the questions in the interrogatory to be answered. It is not up to us to determine the propriety of discovery as if we were a court of first instance. Although it is not beyond the ambit of review, unless it is shown that the lower court lacks a reasonable ground or hinders the substantial rights of a party, the judgment of the trial judge who presided the proceeding should prevail." (pp. 557-8).

Since plaintiff did not claim an abuse of discretion the Supreme Court of Puerto Rico followed the *Sierra* case and denied review. Such a discretionary denial of review is not a question which this Court should undertake to review.

Furthermore, this Court has in the past denied certiorari when it appeared that a denial of review by a

supreme court might have rested on non-federal grounds.[15] Actually there are at least four non-federal grounds on which the denial by the Supreme Court of Puerto Rico might have rested:

(1) an interpretation of the local Puerto Rican antitrust statutes;

(2) the defenses would, if proved, show that the plaintiff had unclean hands;

(3) a rule of local procedural law that the scope of discovery is within the control of the trial court, to be generally reviewed only after trial;[16] and

(4) plaintiff's contract and course of conduct were void as against the Public Order of Puerto Rico.

There being these alternative non-federal grounds, review should not be accorded to petitioner under Section 1258.

C. Plenary review is not warranted.

Petitioner's final argument is that this Court must rewrite Section 1258 or it will be deprived of "corrective power over erroneous adjudications of federal questions by inferior Puerto Rican courts, wherever the Puerto Rico Supreme Court had exercised its discretionary power" and denied review. To support this, petitioner argues that unless rewritten there can be no review by this Court of a constitutional question decided by the

15. *See Stembridge v. Georgia*, 343 U. S. 541, 547 (1952), where this Court stated:

> "At this stage, the Supreme Court of Georgia could have denied certiorari on adequate state grounds. Where the highest court of the state delivers no opinion and it appears that the judgment *might* have rested upon a non-federal ground, this Court will not take jurisdiction to review the judgment."

16. *Sierra v. Superior Court*, 81 P.R. Rep. 540 (1959).

lower courts of Puerto Rico. This argument is unsound. There is an absolute right of appeal to the Supreme Court of Puerto Rico in cases involving constitutional questions, and Section 1258 permits review of that court's judgment. Furthermore if the decision of the Puerto Rican court in this case had rested *solely* on questions of federal law, Section 1258 would permit review. However, in view of the non-federal grounds for decision there is no basis for review.

IV

Petitioner's arguments on the U. S. antitrust laws are not pertinent.

In view of the foregoing, we do not reach any problem under the antitrust laws of the United States. Petitioner's argument on this problem is in reality entirely synthetic and specious. Suffice it to say that in a case in equity a District Court of the United States would, we submit, have reached the same conclusion. This is a suit for an injunction, without any claim for damages or unjust enrichment, to enforce a contract which was one of the means employed to effect an unreasonable restraint of trade. On a motion to strike defendants' antitrust defenses, a district court would have assumed, as a matter of law, that the contract sought to be enforced by specific performance was an integral part of petitioner's plan for monopolization of trade and commerce and indeed, that enforcement thereof would entail a direct violation of Section 7 of the Clayton Act as well as Section 2 of the Sherman Act. It would, accordingly, have denied the motion to strike. The cases cited by petitioner are not

17 4 L.P.R. Ann. §37(a).

in point because they involve efforts by a defendant who, having received benefits under an illegal contract, seeks to avoid paying the plaintiff for the value received. No such situation exists in this case.

CONCLUSION

The petitioner having failed to set forth any basis for review by this Court under Section 1258 of the Judicial Code, the Petition for Writs of Certiorari should be denied.

March 14, 1962

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APPENDIX I

Antitrust Laws of Puerto Rico, Sections 251 and 252 (10 L.P.R. Ann. §§251 and 252)

251. Contracts in restraint of trade

Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade, commerce, business transactions, and lawful and free competition in a town, or among the several towns of Puerto Rico is hereby declared to be illegal. Every person who shall make any such contract or engage in any such conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both such punishments in the discretion of the court. Mar. 14, 1907, p. 328, 1. eff. May 1, 1907.

252. Monopolies; penalty

Every person who shall monopolize or attempt to monopolize or combine or attempt to combine with any other person or persons to monopolize any part of the trade or commerce in any town of Puerto Rico or between the towns thereof shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding five thousand dollars, or by imprisonment, not exceeding one year, or by both such punishments, in the discretion of the court. Mar. 14, 1907, p. 328, §2 eff. May 1, 1907.

Judicial Code of Puerto Rico, Section 37(b) (4 L.P.R. Ann. §37(b))

37. Review of Rulings of Court of First Instance

(b) Any other final judgment of the Superior Court may, on request of the party aggrieved, be reviewable by

the Supreme Court, by way of certiorari issued at the discretion of the court. The filing of a petition for review shall stay all proceedings in the Superior Court with respect to the judgment or part thereof whose review is sought, or the questions comprised therein, until the Supreme Court shall decide the proceeding. However, the Superior Court may proceed with the suit as to any question involved therein not comprised in the review proceedings, and if the judgment on appeal provides for the sale of goods liable to loss or deterioration, the Superior Court may order that the same be sold and the proceeds of the sale be deposited therein until the Supreme Court shall decide the proceeding.

Judicial Code of the United States, Sections 1257, 1258 and 1293 (28 U.S.C. §§1257, 1258 and 1293)

§1257. State courts; appeal; certiorari

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows:

(1) By appeal, where is drawn in question the validity of a treaty or statute of the United States and the decision is against its validity.

(2) By appeal, where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity.

(3) By writ of certiorari, where the validity of a treaty or statute of the United States is drawn in question or where the validity of a State statute is drawn in question on the ground of its being repugnant to the Constitution,

treaties or laws of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of, or commission held or authority exercised under, the United States. June 25, 1948, c. 646, 62 Stat. 929.

1258. Supreme Court of Puerto Rico; appeals, certiorari

Final judgments or decrees rendered by the Supreme Court of the Commonwealth of Puerto Rico may be reviewed by the Supreme Court as follows:

(1) By appeal, where is drawn in question the validity of a treaty or statute of the United States and the decision is against its validity.

(2) By appeal, where is drawn in question the validity of a statute of the Commonwealth of Puerto Rico on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, and the decision is in favor of its validity.

(3) By writ of certiorari, where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of the Commonwealth of Puerto Rico is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution, treaties, or statutes of, or commission held or authority exercised under, the United States. Added Pub. L. 87-189, §1, Aug. 30, 1961, 75 Stat. 417.

1293. Final decisions of Puerto Rico and Hawaii Supreme Courts

(Repealed. Pub. L. 87-189, §3, Aug. 30, 1961, 75 Stat. 417)

The courts of appeals for the First and Ninth Circuits shall have jurisdiction of appeals from all final decisions

of the supreme courts of Puerto Rico and Hawaii, respectively in all cases involving the Constitution, laws or treaties of the United States or any authority exercised thereunder, in all habeas corpus proceedings, and in all other civil cases where the value in controversy exceeds $5,000, exclusive of interest and costs. June 25, 1948, c. 646, 62 Stat. 929.

Rules of Civil Procedure of Puerto Rico (1958), Rule 34.4.

Rule 34.4. Failure of party to attend or serve answers.

If a party or an officer or managing agent of a party wilfully fails to appear before the officer who is to take his deposition, after being served with a proper notice, or fails to serve answers to interrogatories submitted under Rule 30 after proper service of such interrogatories, the court on motion and notice may strike out all or any part of any pleading of that party, or dismiss the action or proceeding or any part thereof, or enter a judgment by default against that party.